

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CATHERINE HUTCHINSON,	)	
by her guardian Sandy Julien	)	
ET AL,	)	
Plaintiffs	)	
	)	
v.	)	C.A. No. 07-30084-MAP
	)	
DEVAL L. PATRICK, Governor,	)	
ET AL,	)	
Defendants	)	

ORDER REGARDING  
CLASS DEFINITION

October 4, 2007

PONSOR, D.J.

On September 26, 2007, the court entered its order allowing Plaintiff's Motion for Class Certification (Dkt. No. 35).

A minor disagreement remained following this ruling regarding the precise definition of the class. Having now reviewed the parties' proposed alternate definitions, the court orders that the class be defined as follows:

All Massachusetts residents who now, or at any time during this litigation: (1) are Medicaid eligible; (2) have suffered a brain injury after the age of 22; and (3) reside in a nursing or rehabilitation facility or are eligible for admission to such a facility.

The proposed fourth criterion, limiting the class to persons who "would handle and benefit from community support

services," suffers from the imprecision of the word "handle." In addition, this fourth criterion would generate a constantly changing class, as members' medical conditions improved or declined.

It should be noted, despite the definition of the class, that it is unlikely that the court would permit class members to have any remedy resulting from this litigation forced upon them against their will, or be placed in positions where their health or safety would be at risk.

It is So Ordered.

/s/ Michael A. Ponsor  
MICHAEL A. PONSOR  
U. S. District Judge